

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

**BOARD OF COMMISSIONERS
OF RILEY COUNTY, KANSAS,**

Plaintiff,

vs

Bill W. and Bessie J. Abel, et al.,

**Case No. 19 CV 00000
Division II**

Defendants.

| DEFENDANTS: | ITEM # |
|---------------------------------------|---------------|
| Abel, Bill W. and Bessie J. | 1, 2 |
| Abel, Scott | 1, 2 |
| Alford, C. Hugh and Clara E. | 3 |
| Jaেকে, Rodella | 3 |
| Alford, Ronald Hugh | 3 |
| Alford, Russell Doyle | 3 |
| Fenger, T. Nick | 4 |
| Hoover, Charles | 5 |
| Marrs, Russ | 5 |
| Marr, Ronald | 5 |
| Kemnitz, Wayne E. | 6 |
| Lyons, Franklin | 7, 8 |
| Merritt, Ronald K. | 9 |
| Nice, Larry W. | 10 |
| Norton, Paul D. and Mildred G. | 11 |
| Norton, Betty | 11 |
| Ross, Tawanna G. | 12 |
| Ross Johnson, Landon Kain | 12 |
| Schurle, Christopher D. and Trista L. | 13 |
| Sowell, Ronald A. | 14 |
| Sowell, Scott | 14 |
| Kaaa, Shannon | 14 |
| Sowell, Steve | 14 |
| Willits, Timothy N. | 15 |
| Willits, Louis L. and Violet D. | 16 |
| Ebel, Cheryl | 16 |
| Jones, Susan | 16 |
| Willits, LeRoy | 16 |
| Wright, E'Lynn Sue | 17 |

| | ITEM # |
|--|---------------------|
| LIENHOLDERS: | |
| Beerbower, Cecil | 5 |
| Chase Bank, N.A. | 8 |
| City of Manhattan | 3, 6 |
| City of Riley | 12 |
| Commerce Bank, N.A. | 5, 7 & 8 |
| Peoples State Bank, f/n/a Leonardville State Bank | 13 |
| State of Kansas Department of Revenue | 7 |

Their unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of any deceased defendant or any person alleged to be deceased; and

The unknown executors, guardians, conservators and trustees of such of the above named defendants who are minors or are in any way under legal disability; and

The unknown executors, administrators, devisees, trustees, creditors, successors and assigns of such defendants as are or were partners or in partnership; and

The unknown officers, executors, administrators, trustees, creditors, successors, receivers and assigns of any of the above-named defendants who are or were existing, dissolved or dormant corporations; and

The unknown spouses of the defendants, and all other persons concerned,

Defendants.

PETITION

PURSUANT TO CHAPTER 60 AND 79 OF THE KANSAS STATUTES ANNOTATED

COMES NOW the plaintiff and, for its cause of action against the defendants alleges:

1. Plaintiff is a body politic and corporate, and is a duly organized and existing county of the State of Kansas. A resolution, heretofore adopted by plaintiff pursuant to K.S.A. 79-2801, as

amended, is attached hereto, marked "Exhibit A" and made a part hereof by reference, authorized the institution of this proceeding to foreclose tax liens against real property in Riley County, Kansas. The real property and liens are more specifically described in "Exhibit B" attached hereto and made a part hereof by reference. Riley County claims a first and prior lien upon said real estate. Other lienholders shown of record are listed under "Judgment/Liens" in "Exhibit B."

2. Plaintiff is exempt from depositing court cost or paying docket fees pursuant to K.S.A. 60-2005.

3. Plaintiff further alleges that it has diligently inquired as to the residences and whereabouts of the defendants herein and, except as set forth in the caption hereof, is unable to state the residences and whereabouts of the defendants, and each of them, or whether any of them are dead, and, if they or any of them be dead, plaintiff is unable to ascertain the names, residences, whereabouts and identity of the heirs, executors, administrators, devisees, trustees, conservators and assigns of such defendants. Upon diligent inquiry plaintiff is unable to ascertain whether the defendant corporations named herein are domestic or foreign corporations, nor their legal status, nor whether they continue to have legal existence and officers, nor the names and whereabouts of the successors, trustees or assigns, if any, of such corporations as may be dissolved. All of the defendants herein named, and those claiming under or through them, should be required to appear herein, so that all claims, estates, titles and interest may be determined by the decree of this Court and so that the tax lien therein to be foreclosed may be adjudged a good, valid and perfect first and prior lien upon each tract, lot or piece of real estate described herein, for the taxes, together with interest, charges, penalties and costs thereon.

4. All requirements of law pertaining to assessment, levy, taxation, publication and the proof thereof, sale and purchase in the name of the plaintiff as prescribed by K.S.A. 79-2301, *et seq.* and

every other legal condition precedent to judicial foreclosure of the tax liens, have been performed and satisfied. The taxes have not been paid as required by law; and all of the described real estate is subject to foreclosure and sale for delinquent taxes.

5. The caption of the Petition is incorporated herein and made a part hereof by reference. The persons named as defendants therein are the owners and supposed owners, and persons other than plaintiff having or claiming to have an interest in the lands described, so far as plaintiff is able to ascertain, but the exact nature of such ownership and interest is unknown to plaintiff.

6. "Exhibit B" is a schedule containing information pertinent to this proceeding and is attached hereto, incorporated herein and made a part hereof by reference. Each tract, lot and piece of real estate intended to be included in this foreclosure proceeding is described as a separate item upon "Exhibit B" and has been given a separate item number.

7. Said lands described in "Exhibit B" are all in Riley County, Kansas. All of the descriptions used in "Exhibit B" are intended to indicate with ordinary and reasonable certainty the real estate intended to be included in this foreclosure proceeding. "Exhibit B" also contains a statement of the taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate respectively as of January 4, 2019. Each lot, tract or piece of real estate described in said "Exhibit B" is delinquent for the payment of taxes, charges, interest and penalties allowed by law for the years and in the dollar amounts indicated upon each item respectively as of January 4, 2019. Said "Exhibit B" shows the names of the owners, supposed owners and parties having or claiming to have any interest in the real estate and the year such property was sold for delinquent taxes under the provisions of K.S.A. 79-2302.

8. Each tract, lot or piece of real estate described in “Exhibit B” is also subject to charges occasioned by this foreclosure proceeding and to an equitable proration of the costs of this proceeding to be fixed and determined by the court.

9. The plaintiff's lien is for unpaid taxes on the real estate in question and is a first and prior lien to the liens and claims of all of the defendants including the unknown members of the classes set forth in the caption. Plaintiff is unable to allege in greater detail the nature or extent of the claims of any of the defendants, and is unable to allege which, if any, of the defendants may be dead, and which, if any, of the corporate defendants may be dissolved, and in the event of such death or dissolution, the plaintiff is unable to allege the names of the heirs, executors, administrators, devisees, trustees, conservators and assigns, if any, of the defendants or the successors, trustees and assigns of any dissolved corporations, or the whereabouts of any of said persons, except as alleged herein. Plaintiff respectfully requests that each defendant and those claiming under or through any of the defendants herein, be required to appear in this cause and to assert what interest, if any, they or any of them have or claim to have in and to any of the real estate described herein so that all claims, estates, interest and titles may be determined by the decree of this Court and so that the plaintiff's tax lien herein may be foreclosed against each tract listed on “Exhibit B” and adjudged to be a good, valid and perfect first and prior lien upon each tract.

10. To the extent any of the real property subject to this foreclosure proceeding also bears one or more personal property tax judgment liens, plaintiff claims an additional lien therein. In the event of judicial sale, the priority of any such lien or liens should be determined by the Court and distribution of sale proceeds had in accordance with the priority established by law.

11. The defendant, State of Kansas, Department of Revenue, has a tax warrant interest in tracts identified and described in “Exhibit B” as follows:

A. Franklin E. Lyons

Residence: 2805 Nelson's Landing
Manhattan, KS 66502
Property: Lot Three (3), in Autumn Ash, a Subdivision in Riley County, Kansas
Filed By: Kansas Department of Revenue (09-ST-58)
Date/Place: June 15, 2009
Clerk of the District Court
Riley County, Kansas

12. The defendant, City of Manhattan, Kansas, has a **special assessment** interest in tracts identified and described in "Exhibit B" as follows:

A. Alford, C. Hugh & Clara (both deceased)

Exhibit B Item #: 3
Property: 0 Tuttle Street
Manhattan, KS 66502
Filed By: Rick Berry, City of Manhattan
Nuisance Conditions
Date/Place: June 27, 2016
Register of Deeds, Book 867, Page 374
Riley County, Kansas

B. Alford, C. Hugh & Clara (both deceased)

Exhibit B Item #: 3
Property: 0 Tuttle Street
Manhattan, KS 66502
Filed By: Justin Holmes, City of Manhattan
Nuisance Conditions
Date/Place: September 8, 2017
Register of Deeds, Book 871, Page 6974
Riley County, Kansas

C. Alford, C. Hugh & Clara (both deceased)

Exhibit B Item #: 3
Property: 0 Tuttle Street
Manhattan, KS 66502
Filed By: Justin Holmes, City of Manhattan
Nuisance Conditions
Date/Place: June 15, 2018
Register of Deeds, Book 874, Page 785
Riley County, Kansas

D. Alford, C. Hugh & Clara (both deceased)

Exhibit B Item #: 3
Property: 0 Tuttle Street
Manhattan, KS 66502
Filed By: Justin Holmes, City of Manhattan
Nuisance Conditions
Date/Place: October 3, 2018
Register of Deeds, Book 875, Page 660
Riley County, Kansas

E. Kemnitz, Wayne E.

Exhibit B Item #: 6
Property: 2521 Brockman St
Manhattan, KS 66502
Filed By: City of Manhattan
Housing Rehabilitation Assistance Mortgage
Date/Place: October 28, 2014
Register of Deeds, Book 860, Page 6811

13. The defendant, City of Riley, Kansas, has a special assessment interest in tracts identified and described in "Exhibit B" as follows:

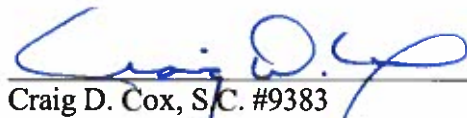
A. Ross, Tawanna Gayle

Exhibit B Item #: 12
Property: 114 Remmele St
Riley, KS
Filed By: Doris Fritz, City of Riley
Date/Place: December 18, 2017, Clerk's Office, Riley County, KS
September 10, 2018, Clerk's Office, Riley County, KS

14. Plaintiff is entitled to a decree of this Court determining the amount of taxes, charges, interest and penalties chargeable to each particular tract, lot and piece of real estate in such amount as the Court shall determine; to a judgment for costs herein equitably apportioned against each tract, lot and piece of real estate; to a judgment for charges herein; for a judgment determining the owner or parties having an interest herein; to a decree adjudging the amount so found to be due to be a first and prior lien upon each item of real estate described upon "Exhibit B"; for a judgment determining the

amount and priority of liens for personal property taxes; for an order directing that each item of real estate described upon "Exhibit B" be sold at public sale for the satisfaction of each lien; and for other necessary relief.

WHEREFORE, plaintiff prays that the Court determine the amount of taxes, charges, interest and penalties chargeable to each particular tract, lot or piece of real estate described herein; the name of the owner or party having an interest therein; that the Court adjudge and decree the amount due to be a first and prior lien upon the real estate; that the Court adjudge and decree the amount and priority of liens upon the real estate for personal property taxes; that each defendant be required to appear and establish their claim, estate, title or interest in said property; that the same be sold at public sale for the satisfaction of the lien, costs, charges and expenses of the proceedings and sale; and for such and further relief as the Court deems just and equitable in the premises.



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Manhattan, KS 66502
Phone (785) 565-6844
Fax (785) 565-6847
Attorney for Plaintiff

RESOLUTION NO. 122018-69

A RESOLUTION AUTHORIZING REAL ESTATE TAX FORECLOSURE SALE

BE IT RESOLVED by the Board of County Commissioners of Riley County, Kansas,

1. That K.S.A. 79-2801, provides that in all cases in which real estate has been or shall be sold and bid in by the County at any delinquent tax sale and shall remain unredeemed on the first day of September, of the second year after such sale, or any extension thereof as provided by subsection (b) of K.S.A. 79-2401a, the Board of County Commissioners shall order the County Counselor to institute an action in the District Court, in the name of the Board of County Commissioners, against the owners or supposed owners of such real estate and all persons having or claiming to have any interest therein or thereto, by filing a petition with the Clerk of said Court.

2. That the Board of Commissioners of Riley County, Kansas, have been advised by the Riley County Treasurer that there are approximately 34 tracts of real estate which have been sold and bid in by Riley County at previous delinquent tax sales, and which remained unredeemed on the first day of September of the second year after such sale, or any extension provided by K.S.A. 79-2401a(b) and are currently unredeemed for the year 2014.

3. That the Riley County Counselor be and is hereby ordered to institute an action in the District Court of Riley County, in the name of the Board of Commissioners of Riley County, Kansas, against the owners or supposed owners of such real estate, and all persons having or claiming to have any interest therein or thereto, by filing a petition with the Clerk of said Court to enforce the lien for unpaid taxes of Riley County, Kansas.

ADOPTED this 20th day of December, 2018.

**BOARD OF COMMISSIONERS
OF RILEY COUNTY, KANSAS**

Marvin Rodriguez, Chairman

Ben Wilson
Ben Wilson, Vice Chairman

Ronald E. Wells
Ronald E. Wells, Member

ATTEST:

Rich Vargo
Rich Vargo, Riley County Clerk



EXHIBIT B

| Item # | Years Due | Owners | Additional Owners | Judgments/Items | Quick Ref | Property Address | City | Legal Description | General Tax | Special Assessments | 01/07/19 Interest | Total Due |
|--------|------------|--------------------------|--------------------------|---|-----------|------------------------|--------------|--|-------------|---------------------|-------------------|-----------|
| 1 | 2014-2018 | Abel, Bill W ET UX | | NONE | R1260 | 14406 Grandview Dr | Randolph | lot Thirty (30), Block Five (5), of Bridgeview Heights, a Subdivision located in Riley County, Kansas | 1.84 | 0.00 | 64.32 | 66.16 |
| 2 | 2014-2018 | Abel, Bill W ET UX | | NONE | R1259 | 14408 Grandview Dr | Randolph | lot Thirty-one (31), Block Five (5), of Bridgeview Heights, a Subdivision located in Riley County, Kansas | 1.84 | 0.00 | 64.32 | 66.16 |
| 3 | 2014-2018 | Alford, C Hugh & Clara E | | Affidavit filed in 2016 and 2018 filed by the City of Manhattan, Kansas, solely for the purpose of providing record notice of the City's interest in the real estate in the form of a special assessment against the subject property because of nuisance conditions. | R8117 | 0 Turtle Street | Manhattan | lot Twenty-five (25), in Northview Addition No. 3, City of Manhattan, Riley County, Kansas | 78.46 | 597.50 | 127.27 | 803.23 |
| 4 | 2014-2018 | Fenger, T Nick | | NONE | R2952 | 6910 Chris Ct | Manhattan | lot One (1), Block Eight (8), Lakeside Heights Subdivision, Riley County, Kansas | 6.80 | 0.00 | 65.11 | 71.91 |
| 5 | 2015-2018 | Hoover, Charles E | | Mortgage, dated July 11, 1996, executed by Charles E. Hoover, to Commerce Bank, NA, in the principal sum of \$4,700.00, filed July 18, 1996, and recorded in Book 697, Page 935, in the office of the Register of Deeds of Riley County, Kansas. | R21672 | 12318 & 1320 Harold Rd | Manhattan | lot Five (5), in Eureka Valley Subdivision, Unit No. 1, Manhattan, Riley County, Kansas | 409.28 | 0.00 | 97.08 | 506.36 |
| | | | | Mortgage, dated November 13, 2000, executed by Charles E. Hoover, to Commerce Bank, NA, in the principal sum of \$17,956.69, filed November 29, 2000, 2007, and recorded in Book 788, Page 251, in the office of the Register of Deeds of Riley County, Kansas. | | | | | | | | |
| 6 | 2014-2018 | Kennitz, Wayne E | | Cecil Beebower, adverse possession of real estate interest. | R7774 | 2521 Brockman St | Manhattan | lot Eleven (11), in Northview Acres Addition No. 2, City of Manhattan, Riley County, Kansas | 10,456.58 | 473.75 | 1,716.05 | 12,646.38 |
| | | | | Mortgage, dated October 28, 2014, executed by Wayne E. Kennitz, to The City of Manhattan, in the principal sum of \$25,000.00, filed October 30, 2014, and recorded in Book 850, Page 6811, in the office of the Register of Deeds of Riley County, Kansas | | | | | | | | |
| 7 | 2014-2018 | Lyons, Franklin E | | Mortgage, dated January 7, 1994, executed by Richard E. and Kyoko S. Lyons, to Commerce Bank, NA, in the principal sum of \$10,300.00, filed January 12, 1994, and recorded in Book 650, Page 565, in the office of the Register of Deeds of Riley County, Kansas. | R6109 | 2805 Nelsons Landing | Manhattan | lot Three (3), in Autumn Ash, a Subdivision in Riley County, Kansas | 5,087.94 | 0.00 | 830.61 | 5,918.55 |
| | | | | State of Kansas Tax Lien in the amount of \$1,865.08, filed with the District Court on June 15, 2009, Case No. 09-51-58. | | | | | | | | |
| 8 | 2014-2018 | Lyons, Franklin E | | Mortgage, dated August 25, 1993, executed by Richard E. and Kyoko S. Lyons, to Commerce Bank, NA, in the principal sum of \$50,200.00, filed August 30, 1993, and recorded in Book 640, Page 56, in the office of the Register of Deeds of Riley County, Kansas. | R15507 | 1517 Nichols St | Manhattan | lot Thirteen (13), in Conrow Addition to the City of Manhattan, Riley County, Kansas | 13,659.96 | 0.00 | 2,155.02 | 15,814.98 |
| 9 | 2014-2018 | Merritt, Ronald K | | NONE | R5734 | 5665 Tuttle Creek Blvd | Manhattan | lot One (1), The Merritt Addition, Riley County, Kansas; Subject to and together with the terms, provisions and obligations of the Travel Easement and Covenant recorded in Book 830, Page 8809, in the office of Register of Deeds of Riley County, Kansas | 12,095.96 | 0.00 | 1,990.73 | 14,086.69 |
| 10 | 2014-2018 | Nice, Larry W | | NONE | R2897 | 6915 Margaret Dr | Manhattan | lot Sixty-five (65), Block 8, in Lakeside Heights, a Subdivision in Riley County, Kansas | 6.80 | 0.00 | 65.11 | 71.91 |
| 11 | 2014-2018 | Morton, Paul D ET UX | | NONE | R1333 | 8412 Cedar Dr | Randolph | lot Sixty-five (65), Block 8, in Lakeside Heights, a Subdivision located in Riley County, Kansas | 1.84 | 0.00 | 64.32 | 66.16 |
| 12 | 2013-2018 | Ross, Tawanna Gayle | London Kain Ross Johnson | Nuisance clean up bill totaling \$1,551.00 from the City of Riley, city did clean up in | R4182 | 114 S Kennette St | Riley | lot Ten (10), Block Eight (8), of Bridgeview Heights, a Subdivision located in Riley County, Kansas | 3,193.32 | 1,551.00 | 654.57 | 5,398.89 |
| 13 | 2014-2018 | Schurle, Christopher D | Schurle, Trista L | Mortgage, dated December September 30, 2013, executed by Homer C. and Charlene J. Delawder, to Leonardville State Bank, now known as Peoples State Bank, in the principal sum of \$45,250.00, filed October 1, 2013, and recorded in Book 856, Page 8371, in the office of the Register of Deeds of Riley County, Kansas. Assumed by Christopher D. and Trista L. Schurle by assumption of indebtedness and Mortgage filed January 25, 2017, and recorded in Book 869, Page 3069, in the office of the Register of Deeds of Riley County, Kansas. | R3351 | 211 N Kansas St | Leonardville | lot One (1), Block Two (2), City of Leonardville, Riley County, Kansas, AND, a tract of land described as follows: Beginning at the Northeast corner of said Block 2, and running thence North Twenty feet (20'); thence West One Hundred Forty feet (140'); thence South Twenty feet (20'); thence East One Hundred Forty feet (140'), to the place of beginning, the same being in the Southwest Quarter (SW1/4) of Section Ten (10), Township Eight (8) South, Range Five (5) East of the 6th P.M., in Riley County, Kansas | 4,320.56 | 0.00 | 699.09 | 5,019.65 |
| 14 | 2014-2018 | Sowell, Ronald A | | NONE | R12369 | 0 Potawatomi Ave | Manhattan | 519 TIO ROBE Beg. 127'S & 7'E SE COR LT 4B4 Ward 1, TH S33', W50', N33', E50' TO POB, City of Manhattan, Riley County, Kansas | 68.06 | 0.00 | 62.23 | 130.29 |
| 15 | 2014, 2018 | Willits, Timothy N | | NONE | R2465 | 7209 Hackberry Cir | Manhattan | lot One Hundred Thirty-nine (139), in University Park, a Subdivision in Riley County, Kansas | 17.64 | 250.50 | 17.10 | 285.24 |
| 16 | 2014-2018 | Willits, Violet D ET VIR | | NONE | R1591 | 0 Valley Dr | Randolph | lot Three (3), Block Four (4), of Bridgeview Heights, a Sub-division located in Riley County, Kansas | 1.84 | 0.00 | 64.32 | 66.16 |
| 17 | 2013-2018 | Wright, E Lynn Sue | | NONE | R12929 | 1800 Kemmer Dr | Manhattan | lot Five (5), Block Twelve (12), College Hill Park Addition, Third Unit, City of Manhattan, Riley County, Kansas | 13,173.62 | 0.00 | 2,292.75 | 15,466.37 |
| | Total | | | | | | | | 62,583.34 | 2,872.75 | 11,030.00 | 76,485.09 |